

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:22-CV-00500-D-BM

JOHN DOE,

Plaintiff,

v.

JANE DOE,

Defendant.

**DEFENDANT'S MOTION TO
EXTEND DEADLINE TO
RESPOND TO COMPLAINT**

Defendant Lily Chin, named as “Jane Doe,” pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, hereby moves the Court for an order extending her deadline to respond to the complaint until the later of fourteen days after the Court lifts its order granting Plaintiff John Doe’s motion to stay (D.E. 14), or fourteen days after Mr. Doe files an amended complaint as directed in the Court’s order denying Mr. Doe’s motion for leave to proceed under a pseudonym (D.E. 8). In support of her motion, Ms. Chin states as follows:

1. Plaintiff John Doe filed his complaint (D.E. 1) on December 8, 2022, and filed that same day an *ex parte* motion for leave to proceed under a pseudonym (D.E. 5).

2. On January 5, 2023, the Court denied Mr. Doe’s motion for leave to proceed under a pseudonym, and ordered Mr. Doe to file an amended complaint using his real name or a voluntary dismissal by January 30, 2023. (D.E. 8).

3. On January 15, 2023, Mr. Doe filed a notice of appeal from the order denying leave to proceed by pseudonym (D.E. 9), and on January 19, 2023, Mr. Doe moved to stay the Court's order requiring him to file an amended complaint (D.E. 12).

4. On January 24, 2023, the Court granted Mr. Doe's motion to stay, ordering that the portion of its order requiring Mr. Doe to file an amended complaint shall be stayed until the United States Court of Appeals for the Fourth Circuit rules on Mr. Doe's appeal. (D.E. 14).

5. Ms. Chin executed a waiver of service on January 26, 2023, making her responsive pleading or other response to the complaint due on March 27, 2023. (D.E. 18).

6. Mr. Doe's appeal remains pending before the Fourth Circuit Court of Appeals.

7. There is good cause to extend the deadline for Ms. Chin to respond to the complaint until after the appeal is decided. It would not serve judicial economy for Ms. Chin to answer or otherwise respond to Mr. Doe's existing complaint while Mr. Doe's appeal is still pending, when this Court has ordered Mr. Doe to either amend or dismiss his existing complaint. If the Fourth Circuit affirms this Court's exercise of its discretion to deny Mr. Doe's motion to proceed by pseudonym, Mr. Doe will be required to file an amended complaint or dismissal. If Mr. Doe

chooses to file a dismissal, no response to the complaint will be required; if he files an amended complaint, Ms. Chin will have to file an answer or otherwise respond to any amended complaint with fourteen days. *See* Fed. R. Civ. P. 15(a)(3).

8. If Mr. Doe had either dismissed or amended his complaint by January 30, 2023, as this Court ordered, Ms. Chin would not have had to respond to the existing complaint. She would have been required to respond only if Mr. Doe amended his complaint, and then only to the amended complaint, because it would have been the operative complaint at the time of her response deadline. Extending the deadline for Ms. Chin to respond to the complaint until after the Fourth Circuit rules on Mr. Doe's appeal will give effect to this Court's order, if that order is affirmed, by ensuring that Ms. Chin is required to respond only if Mr. Doe files an amended complaint, and then only to the amended complaint. To give effect to this Court's order denying the motion for leave to proceed by pseudonym while also accounting for the Court's stay of that order pending appeal, Ms. Chin respectfully requests that the Court extend her deadline to respond to the Complaint until the later of fourteen days after the Court lifts its order granting Mr. Doe's motion to stay (D.E. 14), or fourteen days after Mr. Doe files an amended complaint as directed in the Court's order denying Mr. Doe's motion for leave to proceed under a pseudonym (D.E. 8).

9. Ms. Chin does not seek this relief for the purpose of delay, but rather to save the parties' and the Court's resources during the pendency of Mr. Doe's appeal.

10. On the morning on March 22, 2023, counsel for Ms. Chin informed counsel for Mr. Doe of Ms. Chin's intent to file this motion and requested Mr. Doe's position. As of the time of filing this motion, Ms. Chin's counsel has not received a response and is unable to state Mr. Doe's position on the relief sought.

For the reasons stated above, Defendant Lily Chin respectfully requests that the Court extend her deadline to respond to the complaint until the later of fourteen days after the Court lifts its order granting Mr. Doe's motion to stay (D.E. 14), or fourteen days after Mr. Doe files an amended complaint.

This the 23rd day of March, 2023.

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